

STATE OF INDIANA

IN THE RUSH CIRCUIT COURT

COUNTY OF RUSH

FILED

JUN 07 1999

RUSH CIRCUIT COURT  
*Justice*

AMENDMENT OF PROBATE RULES OF RUSH CIRCUIT COURT

Comes now the Court and amends its Probate Rule Number 2 entered February 21, 1989 and previously amended on August 23, 1989, February 15, 1995 and March 12, 1996.

AMENDED RULE 1  
BOND

In every supervised estate and guardianship, the personal representative or guardian, before entering duties, shall file a bond not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate, except as hereinafter provided:

1. Where, under the terms of the will, the testator expresses an intention that the bond be dispensed with, the court shall set a bond adequate to protect creditors and tax authorities.
2. Where the heirs or legatees have filed a written request that the personal representative serve without bond, the bond will be set in an amount adequate to protect the rights of creditors and tax authorities only.
3. No bond shall be required in any supervised estate or guardianship in which a corporate fiduciary qualified by law to serve as such is either the personal representative or one of several co-personal representatives or guardians.

4. In lieu of a bond, fiduciary may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally-insured financial institution with the following restriction placed on the face of the account or document: NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF RUSH CIRCUIT COURT OF RUSHVILLE, INDIANA.

The fiduciary shall file the following with the Court:

- A. Prior to issuance of Letters, the fiduciary's attorney shall execute an Attorney's Undertaking for such assets.
- B. Within ten (10) days of the Order authorizing the creation of the account, a certification by an officer of the financial institution at which the account has been created, stating that the account is restricted as required by the Court, shall be filed with the Court.

AMENDED RULE 2  
INVENTORY

In all supervised estates, the personal representative shall file an inventory with the Court within two (2) months of the appointment of the personal representative. In all unsupervised estates, the personal representative shall file within two (2) months of the appointment of the personal representative a certification that the inventory has been completed as required by I.C. 29-1-7.5-3.2.

A temporary guardian shall file an inventory with the Court within thirty (30) days of appointment. All other guardians shall file a complete inventory of property with the Court within ninety (90) days of appointment.

AMENDED RULE 3  
FEES FOR PERSONAL REPRESENTATIVES AND ATTORNEYS

1. No fees for personal representatives, guardians or attorneys shall be paid out of any supervised estate or guardianship without prior written order of the court.
2. Final fees in supervised estates and guardianships shall not be paid until the court has approved the final account. All orders for final fees shall provide that said fees are to be paid only after approval of the final account. This rule does not preclude payment of partial fees during administration after obtaining written Court order for the same.
3. No Petition for Fees of personal representatives or attorneys need be filed in unsupervised estates.
4. Petitions for Fees must be signed by the personal representative or guardian.
5. Unjustified delays in carrying out duties by the fiduciary and/or attorney will result in a reduction of fees of the individuals responsible for the delay.

RULE 4  
UNSUPERVISED ADMINISTRATION

No Petition for Administration Without Court Supervision will be granted unless the consent requirements of I.C. 29-1-7.5-2(a)(4) are met along with all of the other requirements of I.C. 29-1-7.5-2(a).

AMENDED RULE 5  
ACCOUNTINGS

Whenever a supervised estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after the expiration of the one (1) year and each succeeding year thereafter. Such accounting shall comply with the provisions of I.C. 29-1-6-4 and 29-1-16-6 and:

- (1) shall state facts showing why the estate cannot be closed:
- (2) shall proposed partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees and claimants.

All guardianship accountings shall contain a certification of an officer of any financial institution in which guardianship assets are held, verifying the account balance. (See attached form: "Certification by Financial Institution").

All Social Security or Medicare benefits received by the fiduciary on behalf of an incapacitated person shall be included and accounted for in the guardianship accountings unless Court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility.

In all supervised estate and guardianship accountings, vouchers or canceled checks for the expenditures claimed shall be filed with the accounting. No affidavits in lieu of vouchers or canceled checks will be accepted from individual fiduciaries. An affidavit in lieu of vouchers or canceled checks may be accepted from a state or federally chartered financial institution which serves as a fiduciary, provided the financial institution retains the vouchers or canceled checks on file or by electronic recording device and makes same available to interested parties upon Court order.

The institution shall provide a Certification from its Internal Audit Department verifying the accuracy of the accounting.

All accountings shall follow the prescribed statutory format. Informal, handwritten, or transactional accountings will not be accepted.

#### RULE 6 SUPPLEMENTAL REPORTS

All supplemental reports filed with the Court must be accompanied by receipts for distribution made.

#### RULE 7 ADOPTION

Except for good cause shown, no final hearings in adoption proceedings shall take place until the adopting couple (or the birth parent and adopting step-parent) have been married for at least one (1) year.

A consent to adoption must be notarized.

#### RULE 8 REQUIREMENTS FOR ESTABLISHING GUARDIANSHIPS

In all guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing unless the provisions of I.C. 29-3-5-1(d) are met.

A Physician's Report by the doctor treating the alleged adult incapacitated person or such additional evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date. No determination will be made without a supporting medical report or testimony.

RULE 9  
RESTRICTED ACCOUNTS IN GUARDIANSHIPS OR MINORS

In guardianships over the estate of a minor, unless otherwise authorized by the Court, funds shall be placed in a restricted account, designating that no principal or interest may be withdrawn without prior written order of the Rush Circuit Court.

Prior to the issuance of letters in a guardianship over a minor's estate or the compromise of a minor's claim, the guardian and attorney shall execute the Lawyer's Undertaking and Obligation and Order to Guardians.

A certification by a financial institution that a properly restricted account has been created shall be filed within ten (10) days of the Order establishing guardianship.

No surety bond or restricted account is required where a corporate fiduciary serves as a guardian or co-guardian of the estate.

RULE 10  
ADDRESS OF FIDUCIARIES

All petitions for appointment of personal representatives or guardians shall contain the petitioner's current address. A personal representative or guardian who changes address shall immediately advise the Court of the new address.

The foregoing local rule amendment for the Rush Circuit Court, Rush County, Indiana, having been formally adopted by said Court, the same are hereby promulgated and made effective as of the 1<sup>st</sup> day of July, 1999. Two (2) copies of said rules shall be furnished to the Clerk of the Supreme and Appellate Court pursuant


to Trial Rule 81 of the Indiana Rules of Procedure.

ALL OF WHICH IS CONSIDERED, ORDERED, ADJUDGED AND  
DECREED by the Court this 7<sup>th</sup> day of June, 1999 effective July 1, 1999.

  
\_\_\_\_\_  
BARBARA ARNOLD HARCOURT  
JUDGE, RUSH CIRCUIT COURT

CLERK'S CERTIFICATE

I hereby certify that a copy of the foregoing has been mailed or delivered to the Clerk of the Indiana Supreme Court and Court of Appeals this 7<sup>th</sup> day of June, 1999.

  
\_\_\_\_\_  
JANET D. KILE  
CLERK, RUSH CIRCUIT COURT

CERTIFICATION BY FINANCIAL INSTITUTION

TO: \_\_\_\_\_

FROM: \_\_\_\_\_  
(Guardian's Name)

RE: Guardianship of \_\_\_\_\_

In order to comply with the rules of the Probate Court, I am required to file a Certification of Account Balances. Please certify the balances and names on the accounts I have listed below.

DATED: \_\_\_\_\_  
(Guardian)

For Bank Use Only:

I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the last day of the period covered by this accounting, there was on deposit in this institution to the credit of the Guardian, the following balance:

Name on Account	Account Number	Balance	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name and Address of Institution:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Certifying Officer: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



STATE OF INDIANA ) IN THE \_\_\_\_\_ COURT NO. \_\_\_\_\_  
 ) SS:  
COUNTY OF \_\_\_\_\_ ) CASE NO. \_\_\_\_\_  
IN THE MATTER OF )  
 )  
THE GUARDIANSHIP OF )  
 )  
\_\_\_\_\_ )

PHYSICIAN'S REPORT

\_\_\_\_\_, a physician licensed to practice medicine in all its branches in the State of Indiana, submits the following report on \_\_\_\_\_, alleged incapacitated person, based on an examination of said person on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

1. Describe the nature and type of the incapacitated person's disability:

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2. Describe the incapacitated person's mental and physical condition; and, when it is appropriate, describe educational condition, adaptive behavior and social skills:

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3. State whether, in your opinion, the incapacitated person is totally or only partially incapable of making personal and financial decisions; and, if the latter, the kinds of decisions which the incapacitated person can and cannot make. Include the reason for this opinion.

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4. What, in your opinion, is the most appropriate living arrangement for the incapacitated person; and, if applicable, describe the most appropriate treatment or rehabilitation plan. Include the reasons for your opinion. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Can the incapacitated person appear in court without injury to his/her health?

In the answer is no, explain the medical reasons for your answer.

\_\_\_\_\_

\_\_\_\_\_

I affirm, under the penalties of perjury, the foregoing representations are true.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

This report must be signed by a physician. If the description of the incapacitated person's mental, physical and educational condition, adaptive behavior or social skills is based on evaluations by several professionals, all professionals preparing evaluations must sign the report. Evaluations on which the report is based must have been performed within three (3) months of the date of the filing of the petition.

Names and signatures of other persons who performed evaluations upon which this report is based:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

IN THE MATTER OF THE GUARDIANSHIP OF	)	
	)	CAUSE NO.:
<b>NAME OF PROTECTED PERSON</b>	)	
PROTECTED PERSON	)	

I, **NAME OF GUARDIAN**, having been appointed as Guardian/Protecting Person of the Estate of **NAME OF PROTECTED PERSON**, by the \_\_\_\_\_ Court, \_\_\_\_\_, Indiana, hereby authorize my Attorney, **NAME OF ATTORNEY**, to deposit all of the net Guardianship assets, in the amount of \$ \_\_\_\_\_, in a bank account:

- with the restriction that withdrawal of principal or interest may be made ONLY on written order of this Court, or upon the Protected Person reaching the age of majority.

Date: \_\_\_\_\_

NAME OF GUARDIAN,  
Guardian/Protecting Person  
of NAME OF PROTECTED PERSON

I, as an Officer of this Court and as Attorney for the above Guardian/Protecting Person, hereby assume and undertake personal responsibility to the above named Protected Person and to the Court to make the above designated restricted deposit and to deliver copies of the SIGNATURE CARD or CERTIFICATE evidencing the restricted deposit and the amount thereof to the Court within ten (10) days from this date, or to refund all of the funds to the Court immediately upon demand.

Date:

Attorney

STATE OF INDIANA ) IN THE \_\_\_\_\_ COURT  
 ) SS: \_\_\_\_\_, INDIANA

IN THE MATTER OF THE GUARDIANSHIP OF )  
 ) CAUSE NO.:  
**NAME OF PROTECTED PERSON** )  
PROTECTED PERSON )

CERTIFICATION OF RESTRICTION OF ACCOUNT  
IN COMPLIANCE WITH LAWYER'S UNDERTAKING

The undersigned hereby certifies that he/she is an Officer or employee of the below named financial institution and that the following account has been opened:

Type of Account: \_\_\_\_\_  
 Account Number: \_\_\_\_\_  
 Amount Deposited: \_\_\_\_\_  
 Owner per Signature \_\_\_\_\_  
 Card or Document of \_\_\_\_\_  
 Title: \_\_\_\_\_

The undersigned further certifies that a copy of the Order of the \_\_\_\_\_ Court has been examined in full and is on file with us and that the terms of this account includes a restriction that withdrawal of principal or interest may be made only on written order of the \_\_\_\_\_ Court, \_\_\_\_\_, Indiana, or upon the Protected Person reaching the age of majority.

Dated: \_\_\_\_\_

Name of Financial Institution

Signature

Printed

Title